

Message Text

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PAGE 01 STATE 178263
ORIGIN DLOS-09

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DOTE-00 EB-08 EPA-01 SOE-02 DOE-15 FMC-01 TRSE-00
H-01 INR-10 INT-05 IO-13 JUSE-00 L-03 NSAE-00
NSC-05 NSF-01 OES-09 OMB-01 PA-01 PM-05 SP-02
SS-15 ICA-11 /150 R

DRAFTED BY:D:LOS:RSKATZ
APPROVED BY:S/AR:GHALDRICH
E:EMOSRE

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FM SECSTATE WASHDC
TO AMEMBASSY BONN PRIORITY
INFO AMEMBASSY PARIS
USMISSION USUN NEW YORK
AMEMBASSY MOSCOW PRIORITY

C O N F I D E N T I A L STATE 178263

FOR UNDER SECRETARY COOPER

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: POSSIBLE APPROACH TO THE FRENCH BY UNDER
SECRETARY COOPER ON THE SUBJECT OF QUOTA/ANTI-MONOPOLY
CLAUSE IN THE LAW OF THE SEA TREATY

1. SEVERAL WEEKS AGO AMBASSADOR RICHARDSON SPOKE
WITH YOU OF THE DESIRABILITY OF YOUR MAKING AN APPROACH
TO THE FRENCH AT THE ECONOMIC SUMMIT ON THE SUBJECT
OF A QUOTA/ANTI-MONOPOLY CLAUSE FOR THE LAW OF THE SEA
TREATY. THE PURPOSE OF THIS CABLE IS TO GIVE YOU SOME
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BACKGROUND ON THE ISSUE AND SOME TALKING POINTS TO USE
IF POSSIBLE.

2. THE SUBJECT OF A QUOTA/ANTI-MONOPOLY CLAUSE HAS NOT
BEEN OPENLY NEGOTIATED YET AT THE LAW OF THE SEA CONFER-
ENCE ALTHOUGH IT IS GENERALLY EXPECTED THAT SUCH A CLAUSE
WILL BE A PART OF THE FINAL CONVENTION. THE U.S.

OPPOSES SUCH A CLAUSE IN PRINCIPLE, BUT THE STRONG DESIRE OF THE SOVIETS, THE GROUP OF 77, AND THE FRENCH FOR SUCH A CLAUSE HAS CAUSED US TO GIVE SERIOUS CONSIDERATION TO THE PROBLEM. CHAIRMAN ENGO OF THE FIRST COMMITTEE HAS TOLD THE SOVIETS, THE FRENCH AND THE U.S. THAT HE WOULD INCLUDE IN THE ICNT OR ITS EQUIVALENT ANY QUOTA/

ANTI-MONOPOLY CLAUSE WHICH COULD BE AGREED UPON BY THE THREE COUNTRIES.

3. AFTER EXTENSIVE NEGOTIATIONS AT THE SIXTH SESSION IN 1977, THE U.S. AND THE SOVIETS CAME TO A QUOTA/ANTI-MONOPOLY AGREEMENT WHICH WOULD BE NON-BITE. THIS SATISFIED THE SOVIETS BECAUSE THEIR MAIN CONCERN WAS NOT RESERVING MINE SITES FOR THEMSELVES BUT RATHER MAKING CERTAIN THAT THERE WOULD NOT BE TOO MANY AMERICAN FLAGS IN ANY ONE SPOT ON THE OCEAN, POSSIBLY HAVING SOME STRATEGIC EFFECT. THE FRENCH, HOWEVER, DID NOT AGREE WITH THE U.S.-SOVIET SOLUTION BECAUSE THEIR CONCERN, AS THEY STATED IT, IS TO MAKE SURE THAT THEY GET A MINE SITE FOR THEMSELVES.

4. IN ORDER TO MEET THIS CONCERN, THE U.S. WOULD HAVE TO AGREE TO A QUOTA/ANTI-MONOPOLY PROVISION WHICH WOULD HAVE A VERY DEFINITE BITE TO IT, AND THIS WOULD BE UNACCEPTABLE BECAUSE IT MIGHT SEVERELY LESSEN U.S. ACCESS

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TO SEABED MINERALS. FURTHERMORE, IT IS DIFFICULT TO UNDERSTAND FRENCH INSISTENCE ON A QUOTA/ANTI-MONOPOLY CLAUSE WHEN, BY USING FLAGS OF CONVENIENCE, U.S. SEABED MINERS COULD EASILY AVOID THE EFFECT OF THIS PROVISION. THE FRENCH HAVE COME UP WITH NO WAY TO PLUG THIS LOOPHOLE.

5. IF THIS ISSUE COULD BE ELIMINATED BETWEEN THE U.S. AND FRENCH DELEGATIONS IT WOULD FACILITATE THE LAW OF THE SEA NEGOTIATIONS. BECAUSE IT IS OUR ASSESSMENT THAT THERE WILL BE SUFFICIENT MINE SITES FOR THE FRENCH AND THAT A QUOTA/ANTI-MONOPOLY CLAUSE WOULD BE UNENFORCEABLE IN ANY CASE, WE WOULD HOPE THAT PRESSURE COULD BE BROUGHT TO BEAR ON THE FRENCH DELEGATION TO CHANGE THEIR POSITION. THE FOLLOWING TALKING POINTS MIGHT BE HELPFUL IN THAT REGARD:

-- IN GENERAL U.S.-FRENCH COOPERATION ON SEABED MINING ISSUES IN THE LAW OF THE SEA CONFERENCE HAS BEEN EXCELLENT. WE ARE BOTH MEMBERS OF THE GROUP OF FIVE AND OF THE LIKE-MINDED COUNTRIES AND WE FEEL THAT THOSE GROUPS HAVE PLAYED A VERY CONSTRUCTIVE ROLE IN THE

CONFERENCE.

-- THERE IS ONE ISSUE, HOWEVER, WHICH SEPARATES
OUR COUNTRIES -- THE ISSUE OF THE QUOTA/ANTI-MONOPOLY
CLAUSE -- AND WE HOPE THAT YOU CAN RECONSIDER YOUR

POSITION ON IT FOR SEVERAL REASONS:

A) WE CANNOT ACCEPT A QUOTA/ANTI-MONOPOLY CLAUSE
THAT WOULD RESULT IN DENIAL OF ACCESS TO THE SEABED
TO AMERICAN FIRMS BECAUSE OF THEIR NATIONALITY.

B) WE BELIEVE THAT THERE WILL BE SUFFICIENT MINE
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SITES TO ACCOMMODATE THE FRENCH'S INTERESTS AND, ONCE
FRANCE BECOMES A SEABED MINER, A QUOTA/ANTI-MONOPOLY
CLAUSE WILL ONLY CUT AGAINST THOSE INTERESTS BY
FAVORING OTHER COUNTRIES NOT YET IN THE SEABED MINING
BUSINESS;

C) WE HAVE BEEN UNABLE TO THINK UP ANY WAY WHICH
A QUOTA/ANTI-MONOPOLY PROVISION COULD BE MADE EFFECTIVE
BECAUSE A MINER COULD MINE UNDER ANY FLAG OF CONVENIENCE
HE CHOSE; WE HAVE REPEATEDLY ASKED OUR FRENCH COLLEAGUES
WHETHER THEY HAD ANY SOLUTION TO THIS PROBLEM AND THEY
HAVE REPLIED IN THE NEGATIVE.

-- IT IS IN THE INTEREST OF DEVELOPED COUNTRIES
TO COORDINATE OUR EFFORTS AS CLOSELY AS POSSIBLE IN
THE LAW OF THE SEA NEGOTIATION IN ORDER TO BALANCE THE
UNIFIED EFFORTS OF THE GROUP OF 77. I BELIEVE THAT IF
WE CAN ELIMINATE THE QUOTA/ANTI-MONOPOLY ISSUE BETWEEN
US, OUR EFFORTS IN THE LAW OF THE SEA CONFERENCE AND
IN OTHER POSSIBLE AREAS OF SEABED MINING COOPERATION
WOULD BE MUCH MORE EFFECTIVE. CHRISTOPHER

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ORIGIN DLOS-09

INFO OCT-01 ARA-10 ISO-00 /020 R

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APPROVED BY:D/LOS:GRAFT

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INFO AMEMBASSY BRASILIA 0000

C O N F I D E N T I A L STATE 178263

FOR AMBASSADOR RICHARDSON

FOLLOWING REPEAT STATE 178263 ACTION BONN, INFO PARIS
USUN NEW YORK, AND MOSCOW DATED JULY 14, 1978.

QUOTE: C O N F I D E N T I A L STATE 178263

FOR UNDER SECRETARY COOPER

E.O. 11652: GDS

TAGS: PLOS

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CLAUSE IN THE LAW OF THE SEA TREATY
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